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*Attorneys for Stephen S. Gray,  
Not Individually But Solely in His Capacity  
as Chapter 11 Trustee*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	:
	:
96 WYTHE ACQUISITION LLC,	:
	:
Debtor.	:
	:
-----X	

Chapter 11  
Case No. 21-22108 (SHL)

**DECLARATION OF MOLLY JOBE IN SUPPORT OF THE CHAPTER 11  
TRUSTEE'S OMNIBUS OBJECTION TO PROOFS OF CLAIM NOS. 33,  
34, AND 35 FILED BY THE WILLIAMSBURG HOTEL BK LLC**

I, Molly Jobe, declare, under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am a Director in the Restructuring and Dispute Resolution practice at CohnReznick LLP ("CohnReznick"), which serves as the financial advisor for Stephen S. Gray, not individually but solely in his capacity as the Chapter 11 trustee (the "Trustee") of the estate of 96 Wythe Acquisition LLC (the "Debtor"). I am duly authorized to make this Declaration (the "Jobe Declaration").

2. I am in all respects competent to make this Jobe Declaration, which I submit for all permissible purposes under the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, and the Federal Rules of Evidence in support of the *Chapter 11 Trustee's Omnibus Objection to Proofs of Claim Nos. 33, 24, and 35 Filed by*

*The Williamsburg Hotel BK LLC* [Docket No. 906] (the “Omnibus Objection”)<sup>1</sup> seeking entry of an order (1) disallowing and expunging the Manager Claims, or in the alternative; (2) reclassifying the Manager Claims as general unsecured claims that are subordinate to Benefit Street’s Allowed Subordinated Secured Claim.

3. Except as otherwise set forth herein, all statements in this Jobe Declaration are based on my personal knowledge, familiarity with the Debtor’s affairs, my privileged communications with the Trustee and Togut, Segal & Segal LLP, and my review of relevant documents. If I were called upon to testify, I could and would testify competently to the facts set forth herein.

4. In the course of CohnReznick’s investigation concerning the Debtor’s affairs, we obtained the “Paychex COVID-19 Tax Credit and Deferral Addendum” (the “Addendum”), which is annexed hereto as **Exhibit A**.

5. The Addendum is signed by Jeremy N. Rauch, who is known to have been the director of finance of The Williamsburg Hotel BK LLC (the “Manager”) in 2020. The Addendum also lists the Manager as the “Company Name.”

6. By signing the Addendum, the Manager agreed that “[b]y directing us to defer under this Program you assume sole liability for payment of any deferred taxes.” Addendum at 1.

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed in the Omnibus Objection.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.

Executed on March 20, 2023  
New York, New York.

/s/ Molly Jobe  
MOLLY JOBE

**EXHIBIT A**

**Paychex COVID-19 Tax Credit and Deferral Addendum**

## Paychex COVID-19 Tax Credit and Deferral Addendum

Company Name The Williamsburg Hotel BK LLC

Federal ID Number 8 1 2 1 5 2 4 8 5

Client currently has a service agreement with Paychex, Inc. ("Paychex") for the provision of payroll and related services to Client ("Agreement"). Client agrees to amend its Taxpay® service provided pursuant to the Agreement as set forth in this Paychex COVID-19 Tax Credit and Deferral Addendum Rev. 4/2020 ("Addendum"). This Addendum will be effective following Client signing and returning this Addendum. The commencement of each tax credit or deferral program (each a "Program") requested by Client will become effective upon receipt of any required documentation and a determination that Paychex is providing the Program requested by Client ("Service Effective Date"). Each Program may have separate Service Effective Dates. If multiple organizations are signatories to the Agreement this Addendum applies to all of them. If Client has previously requested Paychex to amend the Taxpay service as set forth in this Addendum, Client agrees that the terms of the Addendum and the Agreement shall apply to the services already provided.

In response to the COVID-19 crisis the federal government has instituted Programs under the Federal Families First Coronavirus Response Act (FFCRA) and Coronavirus Aid, Relief, and Economic Security Act (CARES Act) providing relief from certain payroll tax-related obligations. You have determined that you are eligible to participate in the Programs selected on this Addendum by checking the appropriate box(es) below. Descriptions of Programs are brief summaries that do not describe all conditions of the Program. Client requests that Paychex amend its Taxpay service with respect to the Programs checked for payroll processed pursuant to the Agreement. If more than one organization is a party to the Agreement Paychex will apply your request to every organization. Client represents and warrants to Paychex that it has determined it is eligible for each Program selected and remains solely liable for any tax due or any penalties or interest assessed if Client is not eligible.

**Credits/Deferrals.** If a Program allows Client to (1) defer remitting a payroll tax that would normally be remitted through Taxpay; or (2) receive a credit against a payroll tax that would normally be remitted through Taxpay, Client directs Paychex to not collect or remit the eligible payroll tax for a payroll to the applicable agency. In order to provide this service immediately, Paychex documents and/or reports provided for a payroll may initially indicate that Client may not owe taxes or that taxes will be remitted for one or more of the Programs elected on its original due date. Client acknowledges Paychex will not remit the taxes for each Program elected on its original due date. If you elect a Program that defers tax payments, Paychex will provide you reporting following the payroll indicating the amount of payroll taxes due for each payroll. When any deferred taxes become due Paychex will collect the deferred taxes from you pursuant to the Agreement. If you fail to have sufficient funds when Paychex attempts to collect funds to pay deferred taxes, Paychex will not be obligated to remit the taxes to the agency and you will be solely liable for any penalty and interest for late payment. If you terminate services with Paychex prior to the end of a deferral period, you are solely responsible for making any required deferral payments.

☐ **Tax credit for Covid-19-related employee retention.** *You cannot claim this tax credit and receive an SBA Paycheck Protection loan.* You confirm that you have not received and will not receive an SBA Paycheck Protection program loan while you claim this credit and that you will not claim a work opportunity tax credit (IRC section 51) or employer credit for paid family and medical leave under IRC section 45S for any wages for which you claim this credit. Qualifying employers with fewer than 100 employees can generally take this credit for all qualifying wages, those with 100 or more employees generally can take the credit only for wages paid to employees who are not working because a full or partial shutdown because of a government order related to COVID-19, or a decline in revenues of 50% or more from the same period last year.

☐ **Tax credit for paid family and medical leave for wages paid in 2020.** *You cannot take any wages into account for purposes of this credit that you are taking into account for purposes of credit against income tax under IRC 45S.*

☒ **Deferral of employer portion of Social Security tax deposits for the period 3/27/2020-12/31/2020.** *You cannot claim this tax deferral if you receive an SBA Paycheck Protection loan and any portion of Paycheck Protection loan is forgiven.* Deferred payments are due 50% by 12/31/2021 and the remainder by 12/31/2022. *By directing us to defer under this Program you assume sole liability for payment of any deferred taxes.*

### Requirements

In order and as a condition for us to amend the Taxpay service you agree to (1) take all steps necessary or that we request to apply for and substantiate credits and deferrals or assist us in doing so; (2) provide us all information and other cooperation we request when we request it; (3) review any materials we provide or make available to you and notify us of any inaccuracies within three (3) business days (we may assume they are correct if you do not notify us otherwise); and (4) notify us if you are no longer eligible to participate in any of the programs identified in this Addendum or of any changes or developments that affect your participation in any of the programs.

### General conditions

You will not rely on us for legal, tax, or business advice regarding any Program identified in this Addendum. You are responsible for determining your eligibility for any Program and the benefits you claim under it; by requesting that we recognize the benefit of any Program you confirm that you are eligible for it. We will rely on the information you provide us with respect to any Program. We can

terminate this Addendum, in part or in whole any time, including if we determine that it appears you are not eligible for a Program, we cannot administratively support the Program, or as set forth in the Agreement. WE DISCLAIM ALL WARRANTIES OR GUARANTEES IN CONNECTION WITH PROGRAMS UNDER THIS ADDENDUM including any guarantee that you will be granted the benefit of any Program by the applicable governmental authority. Your obligations under this Addendum will survive any termination of this Addendum or the Agreement.

The individual signing this Addendum represents and acknowledges that he or she has the authority to (i) execute this Addendum on behalf of the Client and each Client which is a signatory to the Agreement (collectively "Client"), and (ii) bind each identified Client to this Addendum. Client warrants that it possesses full power and authority to enter into this Addendum and has read and agrees to the terms and conditions set forth in this Addendum. The parties agree that Client's signature on this Agreement may be transmitted to Paychex electronically or by facsimile or Client may click to accept if that feature is enabled. The Parties further agree that such signature will have the same force and effect as if the original signature had been provided and received.

Authorized Officer/Representative Name Jeremy N. Rauch Title Director of Finance  
Print

Authorized Officer/Representative Signature  Date 04/14/2020